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LEGAL PROTECTION OF PROPERTY RIGHTS IN THE NATURAL DYES OF SIKKA WOVEN FABRICS INDUSTRY ASSESSED FROM LAW NUMBER 28 YEAR 2014 IN TERMS OF COPYRIGHT

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ABSTRACT

This study aims to study and analyze the principles in the Copyright Law and the qualifications of the Sikka Weaving natural coloring compound in Article 40 of Law Number 28 Year 2014 regarding Copyright as Intellectual Property Rights. The method used in this research is normative legal research method. Normative legal research examines library materials or secondary materials by collaborating the statute approach and the descriptive conceptual approach. The results of the findings and analysis of the study researchers, Intellectual Property Rights in the form of natural dye material for hand woven fabrics in Sikka Regency are protected by Law No. 28/2014. The Central Government provides access and facilities in the context of IPR. The role of the Regional Government of Sikka Regency is the main element in maintaining traditional knowledge. The role of the government is in the form of making regional regulations (PERDA) on IPR for Sikka's natural dye weaving. PERDA which refers to the knowledge of the local community, the use and preservation of natural dyes by the community in the process of making Sikka tie weaving. This study recommends that the Sikka Regency should make regional rules about the natural coloring weaving Sikka Regency.

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INTRODUCTION

Indonesia has a diversity of cultural wealth at the level of ethnic groups and customs that apply in it that characterizes the Indonesian nation. The richness of Indonesian culture includes the diversity of woven fabrics. Weaving is defined as weaving in the form of cloth that is tied, woven, and dipped in dye using simple equipment without the aid of a machine or by the machine (Sakti and Roisah 2019). In addition to characterizing Indonesia, the woven cloth also characterizes each region based on the regional motif design.

Legal protection for culture in the form of regional woven fabrics is the government's obligation to its citizens. One of the safeguards for cultural values is the copyright registration of woven fabrics. Article 1 of the Copyright law Number 28 of 2014

concerning Copyright. Copyright is the exclusive right of an author that arises automatically based on the declarative principle after a work is manifested in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations. In addition, protection of traditional knowledge in Indonesia is also contained in laws and regulations other than the intellectual property rights (IPR) Law no 5/1994 concerning the Ratification of the Convention on Biodiversity (United Nation Convention on Biodiversity). This rule clearly requires that each party of the convention is obliged to respect, protect, and maintain the knowledge, innovations and practices of indigenous and local communities.

One area that has diversity in weaving is Sikka Regency. Sikka Regency is an area located in East Nusa Tenggara Province which has a variety of designs of woven motifs. In inheriting the weaving culture, we need a qualifying rule for copyright. In 2019 the Sikka Regency Government issued a Sikka Regency letter number BO.025 / 54 / IX / 2019 which regulates traditional clothing in the scope of the Sikka Regency government which requires the public servant (ASN) to use regional motifs on certain days (Taum 2020). The process of making Sikka woven fabrics is inseparable from the collaboration of natural dyes that give the fabric a variety of colors. The use of natural dyes is a characteristic of the resulting motif designs. In its application, IPR has not been found for the dye for woven fabrics in the Sikka Regency. Lack of information and not yet certified traditional wealth are predicted to have a negative effect on its sustainability. Ownership of IPR is very important in facing the global market, because with IPR ownership someone has legal certainty when there are other entrepreneurs who will copy with the same brand. (Widiastuti and Kusdarini 2013).

Each region at least has a similarity to a dyeing material for woven fabrics, this will cause a problem besides the changing times which are always modern will give and diminish the culture of Sikka Regency, especially the use of natural dyes to dye textiles in collaboration with Article 40 of the Law Number 28 of 2014 regarding Copyright. Therefore, the aim of this study is to examine and analyze the principles in the Copyright Law and the qualifications of the natural dye materials of Sikka woven fabrics in Article 40 of Law Number 28 Year 2014 regarding Copyright as Intellectual Property Rights.

This research used normative legal research methods. Normative legal research examines library or secondary materials by collaborating a statute approach and a descriptive conceptual approach (Soekanto and Mamuji 2006; Sofyanto 2018).

a. Statute Approach

This approach is carried out by examining all laws and regulations relating to the problem (legal issue) being faced. The approach to this law, for example, is carried out by studying the consistency/suitability between the Basic Law and the Law, or between one Law and another.

b. Conceptual Approach

This approach departs from the views and doctrines developed in the science of law. This approach is important because understanding the views / doctrines that develop in legal science can be a basis for building legal arguments when solving legal issues at hand. Views / doctrines will clarify ideas by providing legal definitions, legal concepts, and legal principles that are relevant to the problem.

Sources of data obtained in research studies from secondary data, the data was obtained not directly from the community but from document materials, laws and regulations (in Article 40 of Law Number 28 of 2014 concerning Copyright), literature,

and other research results which supports primary data sources (Soekanto 2005). The data obtained were then analyzed qualitatively through a deductive approach adapted to the study material in order to obtain conclusions.

RESULTS AND DISCUSSION

A. Legal Protection of the Copyright of Natural Dyes Sikka woven fabrics in terms of Law Number 28 year 2014 concerning Copyright

An intellectual property that is owned by an area should be given legal protection. This protection is a form of appreciation for the work of the creator by his ability as a human being and as a form of guarantee of legal protection for the work produced (Sakti and Roisah 2019). Legal protection of copyright is contained in Law Number 28 of 2014 concerning Copyright and is contained in the chapter V law in the category of traditional cultural expressions and protected works.

Part Two 'Protected Works' Article 40 paragraph (1) protected work includes works in the fields of science, art and literature, consisting of: a. books, pamphlets, appearance of published papers, and all other written works; b. lectures, lectures, speeches, and other similar works; c. teaching aids made for the benefit of education and science; d. songs and /or music with or without subtitles; e. drama, musical drama, dance, choreography, puppetry, and pantomime; f. fine arts in all forms such as paintings, drawings, carvings, calligraphy, sculpture, sculpture or collage; g. work of applied art; h. architectural works; i. map; j. batik artwork or other motif art; k. photographic works; l. Portrait; m. cinematographic works; n. translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, modifications and other works resulting from the transformation; o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions; p. compilation of Works or data, either in a format that can be read by a computer program or other media; q. compilation of traditional cultural expressions as long as the compilation is original; r. video games; and S. Computer program. This section clearly describes the categories of protected objects. The legal protection that is carried out provides a guarantee for a product that is registered to obtain a copyright. Then point (2) continues to explain that the work referred to in number (1) letter n is protected as a separate work without reducing the copyright of the original work or take over the wealth. Point (3) continues with adding Protection material as referred to in number (1) and number (2), including protection for Works that have not been or have not been made Publication but have been manifested in a concrete form that allows the Reproduction of the Work. Article 40 of Law Number 28 Year 2014 regarding Copyright has a correlation with guarantees, in the fields of science, art and literature which have economic and moral values. One that is protected by the Government is traditional knowledge. Traditional knowledge is a collaboration of human creations and thoughts expressed in the form of science, art or literature. The regulations are contained in Article 1 point 3 of Law Number 28 Year 2014 concerning Copyright, traditional knowledge in its meaning can be called and categorized as IPR. On nowadays Traditional Knowledge divided into two, namely for that Patent based is called Knowledge Traditional while for the based Copyright is called folklore (Purwaningsih 2012; Sunaryo 2019).

The value of IPR in the form of traditional knowledge in Indonesia has been given legal protection since the first promulgation of the 1982 national Copyright law Article 10 of Law Number 6 of 1982 concerning Copyright, which is furthermore in Law Number 19 of 2002 concerning Copyright, and finally in Article 13 Copyright Law Number 28 of 2014.

This legal protection is carried out as a form of guarantee for the development of products owned by each region specifically that are more competitive and have continuity without ignoring local wisdom, preventing the use of product ownership claims by other parties without permission, and ensuring benefits both economically and non-economically (Senewe 2015).

One of the traditional knowledge of the people of Sikka Regency is knowledge about natural dyes used in the dyeing process for the weaving. The traditional knowledge of Sikka Regency regarding natural dyes is usually composed based on field experience and passed down kinship. This knowledge must be preserved in order to become a priceless wealth, therefore it is necessary to register as a group of IPR.

Intellectual Property Rights (IPR) are divided into main categories, namely: Copyright and Rights to Industrial Property. Industrial Property Rights are divided into:

- a) Patents
- b) Mark Rights
- c) Industrial Product Rights
- d) Rights to Plant Varieties
- e) Right to Layout Design of Integrated Circuits

Based on the IPR classification system, the traditional knowledge of Sikka regency regarding natural dyes is included in the category of Industrial Property Industry Property Rights). In the sub-category of Rights to Plant Varieties. Any plant variety that is involved in the choice of color in the weaving should be registered with the government as one of the rich traditional knowledge values. Registration of rights to plant varieties with natural dyes is a must for the creator or copyright holder in order to be published. The IPR registration letter will be a legal reference and initial evidence in court if a problem / dispute arises in the future regarding the work (Sakti and Roisah 2019). The results of observations and documentation carried out by the natural dyes used in the dyeing of Sikka's weaving consist of plants and fruits that give a distinctive color and differentiate one species from another.

B. Government Regulation to Provide Legal Protection Against Copyright of Natural Dyes Ikat Ikat, Sikka Regency in terms of Law Number 28 year 2014 concerning Copyright

The 2014 copyright law, provides space for art actors, both weavers and plant cultivators, to be creative because it is protected and held by the state. The regulation is binding down to the Regency level local government. The Sikka Regency Government continues to provide support for the development of Sikka woven fabrics as a cultural heritage. By providing promotions both nationally and internationally. As a form of responsibility, Sikka woven fabrics is registered and has IPR (Taum 2020). Sikka woven fabrics has also obtained an ID certificate G000000056 issued by the Directorate General of Intellectual Property, Ministry of Law and Human Rights. This certificate provides information on the legal ownership of the Sikka woven fabrics motif design. The maintenance of Sikka woven fabrics is inseparable from the use of natural dyes which provide the most important nuance to the resulting motif designs (Ananda 2019).

Increased production of woven fabrics has an effect on the use of biological resources for the natural dye for woven fabrics. The increasing need for traditional weaving is directly proportional to the preservation and recording of special features in

an effort to reduce pollution to the environment and avoid textile dyes (Muflihati et al. 2019; Mukhlis 2011). Therefore, the legal protection of natural dye weaving is a priority. Legal protection provided to legal subjects is a form of preventive and repressive protection (Dirjosisworo 2001). Protection of the intellectual property of natural dyes is still being developed and strived to gain recognition from the government through IPR filing. The government has a role in traditional knowledge that belongs to a local community, the protection provided can include material and ownership of this knowledge (Westra 2008). The Regency government program through the Cooperative Trade Office and UMKM in the field of the tie weaving industry is related to training in good fabric dyeing techniques and dyeing the weaving threads and accommodating yarn assistance, seeds of natural dye plants commonly used by weavers. This is done as a form of improving human resources in the weaving industry sector (Sina and Tefa 2019). In fact, in the research field, Sina and Tefa (2020) report that the performance of the Cooperative and UKM Trade Office is not yet fully optimal based on productivity indicators, especially in the study of the preservation of traditional weaving in Sikka Regency.

The government continues to promote Sikka weaving nationally and internationally in various forms of preserving Sikka culture. This is because some creative economies always experience problems in registering trademarks because they are very prone to experiencing unfair competition from other competitors (Sofyarto 2018). Several things that underlie the performance barriers of the UMKM in maintaining and preserving Sikka woven fabrics in Sikka Regency, among others. Limited government funds, lack of training and introduction of natural dyes (Sina and Tefa 2019). Widiastuti and Kusdarini (2013) reported that several reasons, they are:

- a. Limited knowledge and understanding of the craftsmen regarding related matters with intellectual property rights.
- b. Low levels of education and the economic level of the craftsmen inhibits IPR protection for the work of crafter. Most of the batik craftsmen only graduated from elementary school, and start it as batik workers, namely receiving cloth and wax / wax for batik from batik entrepreneurs, then deposit their results to these entrepreneurs.
- c. Communal culture and religious, made craftsmen it is very difficult to accept IPR concepts that emphasize personal rights. Share According to the craftsmen, the process of making and motifs Traditional batik is a cultural heritage, which should not be possessed (monopolized).
- d. The provisions in IPR which are individualistic, commercial, and aspect-oriented material, especially profit economical from their utilization not known and incompatible with communalistic values possessed by Imogiri batik artisans.
- e. Some of the crafters who have been get socialization about rights intellectual property declared that the procedure for submitting IPR applications is difficult and expensive.

The Mbolaso Weaving Group which is located in Hewuli sub-district. Hewuli is a sub-district in West Alok district, Sikka regency, East Nusa Tenggara province, Indonesia postal code of 86115. The people who join the groups come from Palue District. Weaving is part of their live. They use yarn from shop (equivalent to silk). They usually use natural dyes:

1. Kayu Cina/Reo, the part used is the skin which produces a pink color
2. Turmeric produces a yellow color
3. The leaves of the Pohon Kresen produce a Green color
4. Tarun/Nila produces indigo to black colors
5. Noni roots produce brown color
6. The adhesive substance used is kitchen ash then using candlenut for the yellow color, cow dung is used to strengthen the woven threads

Based on Mama Gardis from Akasia Group reported natural dyes is easy to get, around their home. Meanwhile, if we use chemical dyes, we have to buy the coloring materials first, even though it can also damage the environment. The effect is also not good for our health, we weavers, starting from our hands it becomes slightly itchy, as well as coughing (kompasiana.com). While Bliran Sina, The dyeing of the Sikka weaving thread is done in a separate area. "His name is Pang Una Tarun, which is a barn for coloring. They separated Because after soaking it smells really bad, said Yosef Gervasius, 45, the head of the Bliran Sina studio in NTT (Femida.com). The colors that used the Bliran Sina group come from natural ingredients. Among them are the yellow color of the mango peel mixed with turmeric and jackfruit skin. The black color is made from indigo leaves, while the blue color is made from indigo leaves. While the green of the reeds leaves.

The Central Government makes it easy to register copyright online as stipulated in Law Number 28 of 2014 concerning Copyright (Sakti and Roisah 2019). Therefore it is necessary to issue local regulations for SMEs actors of Sikka tie weaving to register the wealth of natural dyes so that they can obtain IPR and become the characteristic of Sikka woven fabrics. The regional regulations (PERDA) in question must cover local knowledge, use and preserve natural dyes used by the community in the process of making Sikka woven fabrics. The legal protection of natural dyes should include regime Copyrights, Trademarks and Trade Secrets. Similar with opinion from Sunaryo (2019) IPR legal protection that is applied in Batik Solo is through the regime Copyrights, Trademarks and Trade Secrets.

CONCLUSION

Based on the findings and analysis of the researchers, it is concluded that the intellectual property rights in the form of natural dyes for woven fabrics is protected by Law No. 28/2014. The Central Government provides access and convenience in registering IPR. The role of the Regional Government of Sikka Regency is the main element in maintaining traditional knowledge. The role of the government is in the form of making regional regulations (PERDA) on IPR for Sikka's natural dye weaving. The PERDA in question must cover local knowledge, utilization and preservation of natural dyes used by the community in the process of making Sikka woven fabrics.

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